

**Senator Mike Dmitrich** proposes the following substitute bill:

**UNFAIR BUSINESS PRACTICES**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Mike Dmitrich**

Ron Allen

Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill enacts provisions within the Utah Criminal Code related to unfair business practices.

**Highlighted Provisions:**

This bill:

- defines unfair business practices;
- provides criminal penalties for unfair business practices; and
- provides a private right of action for a person injured by unfair business practices.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**76-10-906.5**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **76-10-906.5** is enacted to read:



**76-10-906.5. Unfair business practice defined -- Criminal penalties -- Private action.**

(1) § (a) § As used in this section § AND EXCEPT AS PROVIDED IN SUBSECTION (1)(b) § .

"unfair business practice" means a business act or practice

that:

§ ~~(a)~~ (i) § is unlawful, unfair, or fraudulent; and

§ ~~(b)~~ (ii) § leads to a material diminution in value of § ~~[intangible]~~ INTELLECTUAL § property.

**§ (b) NOTWITHSTANDING SUBSECTION (1)(a), "UNFAIR BUSINESS PRACTICE" DOES NOT INCLUDE THE DEPARTURE AND HIRING OF AN EMPLOYEE BY A COMPETITOR. §**

(2) A person who commits an unfair business practice is guilty of:

(a) a class A misdemeanor for an unfair business practice that leads to a diminution in value of § ~~[intangible]~~ INTELLECTUAL § property that is less than or equal to \$20,000; or

(b) a third degree felony for an unfair business practice that leads to a diminution in value of § ~~[intangible]~~ INTELLECTUAL § property that is greater than \$20,000.

(3) (a) In addition to the penalties under Subsection (2), a person injured by an unfair business practice may bring a private cause of action against a person who engages in an unfair business practice.

(b) In an action under Subsection (3)(a), a person injured by an unfair business practice may recover:

(i) actual damages;

(ii) costs and attorney fees; and

(iii) if the court determines that the circumstances are appropriate, punitive damages.